

# Exhibit A

<p style="text-align: center;">Page 1</p> <p style="text-align: center;">Volume: I Pages: 1-212 Exhibits: 1-12</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p style="text-align: center;">ERIC SOUVANNAKANE,</p> <p style="text-align: center;">Plaintiff, Civil Action v. No. 0412164MLW</p> <p>SEARS, ROEBUCK &amp; CO., WILLIAM SULLIVAN, RICHARD SPELLMAN, BARBARA TAGLIARINO, KEVIN SULLIVAN, ALICIA COVIELLO, GARY MANSFIELD, Defendants.</p> <p>DEPOSITION of ERIC SOUVANNAKANE, a witness called by counsel for the Defendants Sears Roebuck &amp; Co., William Sullivan, Richard Spellman, Barbara Tagliarino, Kevin Sullivan and Alicia Coviello taken pursuant to the applicable provisions of the Massachusetts Rules of Civil Procedure, before Toni F. Beckwith, Registered Merit Reporter, CSR No. 111293 and Notary Public in and for the Commonwealth of Massachusetts, at the Offices of Sugarman, Rogers, Barshak &amp; Cohen, P.C., 101 Merrimac Street, Boston, Massachusetts, on Wednesday, February 8, 2006, commencing at 10:11 a.m.</p>	<p style="text-align: right;">Page 3</p> <p style="text-align: center;">1 INDEX Deposition of: Direct Cross Redirect Recross</p> <p style="text-align: center;">2 ERIC SOUVANNAKANE</p> <p style="text-align: center;">3 By Ms Tran 5 206</p> <p style="text-align: center;">4 By Mr. Cloherty 170</p> <p style="text-align: center;">5</p> <p style="text-align: center;">6</p> <p style="text-align: center;">7</p> <p style="text-align: center;">8 EXHIBITS</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 10%;">No.</th> <th style="text-align: left; width: 80%;"></th> <th style="text-align: right; width: 10%;">Page</th> </tr> </thead> <tbody> <tr><td>9</td><td></td><td></td></tr> <tr><td>10</td><td>1 Plaintiff's Response to Defendant Sears, Roebuck &amp; Co., First Set of Interrogatories</td><td style="text-align: right;">30</td></tr> <tr><td>11</td><td></td><td></td></tr> <tr><td>12</td><td>2 Plaintiff's Response to Defendant Sears, Roebuck &amp; Co., First Request for Production of Documents</td><td style="text-align: right;">30</td></tr> <tr><td>13</td><td></td><td></td></tr> <tr><td>14</td><td>3 Plaintiff's Response to Defendant Gary Mansfield's First Set of Interrogatories</td><td style="text-align: right;">30</td></tr> <tr><td>15</td><td></td><td></td></tr> <tr><td>16</td><td>4 Plaintiff's Response to Defendant Gary Mansfield's First Request for Production of Documents</td><td style="text-align: right;">30</td></tr> <tr><td>17</td><td></td><td></td></tr> <tr><td>18</td><td>5 Handwritten Note dated 10/2/03</td><td style="text-align: right;">100</td></tr> <tr><td>19</td><td></td><td></td></tr> <tr><td>20</td><td>6 Documentation of Performance Issues</td><td style="text-align: right;">100</td></tr> <tr><td>21</td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td></tr> </tbody> </table>	No.		Page	9			10	1 Plaintiff's Response to Defendant Sears, Roebuck & Co., First Set of Interrogatories	30	11			12	2 Plaintiff's Response to Defendant Sears, Roebuck & Co., First Request for Production of Documents	30	13			14	3 Plaintiff's Response to Defendant Gary Mansfield's First Set of Interrogatories	30	15			16	4 Plaintiff's Response to Defendant Gary Mansfield's First Request for Production of Documents	30	17			18	5 Handwritten Note dated 10/2/03	100	19			20	6 Documentation of Performance Issues	100	21			22			23			24																				
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<p style="text-align: center;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 KURT S. OLSON, ESQUIRE 500 Federal Street 4 Andover, Massachusetts 01801 Counsel for the Plaintiff</p> <p>5</p> <p>6 SUGARMAN, ROGERS, BARSHAK &amp; COHEN, P.C. 7 By Liza J. Tran, Esquire and 8 Christine M. Netski, Esquire and 9 Sulekeyn Walker, Esquire 10 101 Merrimac Street Boston, Massachusetts 02114 Counsel for Sears, Roebuck &amp; Co., 11 William Sullivan, Richard Spellman, Barbara Tagliarino, Kevin Sullivan and Alicia Coviello</p> <p>12 PIERCE, DAVIS &amp; PERRITANO, LLP By John J. Cloherty, III, Esquire 13 Ten Winthrop Square Boston, Massachusetts 02110 Counsel for Gary Mansfield</p> <p>14 (Exhibits retained by Attorney Tran)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 4</p> <p>1 (Exhibits, continued)</p> <p>2</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 10%;">No.</th> <th style="text-align: left; width: 80%;"></th> <th style="text-align: right; width: 10%;">Page</th> </tr> </thead> <tbody> <tr><td>3</td><td></td><td></td></tr> <tr><td>4</td><td></td><td></td></tr> <tr><td>5</td><td>7 Handwritten Note dated 10/14/03</td><td style="text-align: right;">100</td></tr> <tr><td>6</td><td>8 Handwritten Note dated 1/15/03</td><td style="text-align: right;">100</td></tr> <tr><td>7</td><td>9 Preface</td><td style="text-align: right;">134</td></tr> <tr><td>8</td><td>10 Plaintiff's Disclosure Pursuant to LR 26.2(A) &amp; LR 26.1(B)(1)&amp;(2)</td><td style="text-align: right;">158</td></tr> <tr><td>9</td><td></td><td></td></tr> <tr><td>10</td><td>11 Defendant Gary Mansfield's Local Rule 26.2(A) Disclosure</td><td style="text-align: right;">171</td></tr> <tr><td>11</td><td></td><td></td></tr> <tr><td>12</td><td>12 Formal Trespass Notice</td><td style="text-align: right;">206</td></tr> <tr><td>13</td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td></tr> <tr><td>18</td><td></td><td></td></tr> <tr><td>19</td><td></td><td></td></tr> <tr><td>20</td><td></td><td></td></tr> <tr><td>21</td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td></tr> </tbody> </table>	No.		Page	3			4			5	7 Handwritten Note dated 10/14/03	100	6	8 Handwritten Note dated 1/15/03	100	7	9 Preface	134	8	10 Plaintiff's Disclosure Pursuant to LR 26.2(A) & LR 26.1(B)(1)&(2)	158	9			10	11 Defendant Gary Mansfield's Local Rule 26.2(A) Disclosure	171	11			12	12 Formal Trespass Notice	206	13			14			15			16			17			18			19			20			21			22			23			24		
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## 1 PROCEEDINGS

2 MS. TRAN: Do you want to agree to the  
 3 usual stipulations to reserve objections, except  
 4 as to form, until trial? Do you want to waive  
 5 the signing, or do you want him to read and  
 6 sign?

7 MR. OLSON: I want him to read and  
 8 sign.

9 MS. TRAN: We can waive the notary.

10 Q. My name is Liza Tran. I represent  
 11 Sears Roebuck & Co., as well as Richard  
 12 Spellman, William Sullivan, Kevin Sullivan,  
 13 Alicia Coviello, Barbara Tagliarino, which I  
 14 believe is the laundry list of Sears employees  
 15 that are named individually in the lawsuit that  
 16 you have filed.

17 Have you ever been deposed before?

18 A. No.

19 Q. Just some very brief information on  
 20 how the deposition will proceed. I'm going to  
 21 ask you a series of questions. Everything we  
 22 say is being recorded by the court reporter over  
 23 here.

24 I'm going to ask that you let me

1 Q. Also, because everything is being  
 2 recorded, I'm going to need you to respond  
 3 verbally. So you can't shrug or nod your head  
 4 because she can't record that if she's writing  
 5 down what we're saying. So you have to answer  
 6 verbally even if normally you shrug your head to  
 7 answer.

8 A. Understood.

9 Q. Can you please state your full name  
 10 for the record?

11 A. Eric Souvannakane.

12 Q. Do you have a middle name?

13 A. No.

14 Q. Can you spell your last name?

15 A. S O U V A N N A K A N E.

16 Q. And what is your date of birth?

17 A. October 25, 1982.

18 Q. Where were you born?

19 A. Salem, Massachusetts.

20 Q. Where do you currently reside?

21 A. Where am I living?

22 Q. Yes.

23 A. 12 Eutaw Ave., Lynn, Mass.

24 Q. How long have you lived at 12 Eutaw

1 finish asking my question in its entirety before  
 2 you answer, even if you know what I'm going to  
 3 say, and I will let you finish your answer  
 4 before I ask another question. This way the  
 5 court reporter can record what we're both  
 6 saying. She can't record us if we're talking  
 7 over each other.

8 Also I need you to keep your voice up  
 9 so she can hear you. If at any time you need to  
 10 take a break, let me know. If you need to talk  
 11 to your counsel, use the rest room, I'm happy to  
 12 accommodate you. I'd ask that you answer  
 13 whatever question is pending at that moment  
 14 before we break at any time.

15 A. All right.

16 Q. If I ask you any questions that you  
 17 don't understand or you're not sure of the  
 18 answer, feel free to let me know and ask me to  
 19 repeat the question. I'm happy to do that. You  
 20 don't have to guess at what I'm asking.

21 If for whatever reason you don't  
 22 understand what I'm saying, just stop me and  
 23 I'll happily repeat the question, okay?

24 A. Sure.

1 Ave.?

2 A. About four and a half years now.

3 Q. Is it a house or an apartment?

4 A. It's an apartment building.

5 Q. Where did you live before that  
 6 residence?

7 A. I lived on Endicott Street.

8 Q. Do you remember the actual address?

9 A. No, I don't.

10 Q. Do you remember how long you  
 11 approximately lived on Endicott Street?

12 A. About three years.

13 Q. And what town or city is Endicott  
 14 Street located in?

15 A. Lynn, Massachusetts.

16 Q. Do you remember where you lived before  
 17 you lived on Endicott Street?

18 A. Yes. 90 Neptune Street.

19 Q. Where is 90 Neptune Street?

20 A. Lynn, Mass.

21 Q. Do you remember approximately how long  
 22 you lived at 90 Neptune Street?

23 A. I believe one year.

24 Q. Are you married?

	Page 9	
1	A. No.	1 school?
2	Q. Do you have any children?	2 A. '02.
3	A. I have one daughter.	3 Q. So you were working in the automotive
4	Q. What is her name?	4 industry while you were in high school?
5	A. Zuriah, Z U R I A H.	5 A. Yes.
6	Q. How old is Zuriah?	6 Q. What do you do in the automotive
7	A. One years old.	7 industry?
8	Q. Does she live with you?	8 A. Right now?
9	A. Yes.	9 Q. Yes.
10	Q. Does anybody else live with you	10 A. I'm a car salesman right now.
11	besides your daughter?	11 Q. Where are you a car salesman?
12	A. The mother of the child.	12 A. Ira Toyota in Danvers.
13	Q. What is her name?	13 Q. How long have you been employed by Ira
14	A. Sarah.	14 Toyota?
15	Q. What is Sarah's last name?	15 A. Since October.
16	A. McDonald.	16 Q. October of what year?
17	Q. Can you spell her last name?	17 A. '05.
18	A. M C D O N A L D.	18 Q. Is that all you do at Ira Toyota, is
19	Q. What is your educational background?	19 sell cars?
20	A. The automotive industry.	20 A. Sales consultant, yeah.
21	Q. Did you go to high school?	21 Q. Do you make a set salary at Ira Toyota
22	A. Yes, I did.	22 or do you make a commission?
23	Q. Did you graduate?	23 A. Commission. And there is a set
24	A. Yes, I did.	24 salary.
	Page 10	
1	Q. Did you go to college or any post high	1 Q. So it's both, combination?
2	school?	2 A. Yes.
3	A. No, I haven't.	3 Q. What is your salary there?
4	Q. Have you ever done any trainings or	4 A. It's 250.
5	seminars or anything for the automotive work	5 Q. Can you be more explicit?
6	that you do?	6 A. \$250 a week.
7	A. Yes, I did.	7 Q. What percentage of commission do you
8	Q. What trainings have you done?	8 get for any cars that you sell?
9	A. Automotive training, the vocational	9 A. 15 percent.
10	building in the high school facility.	10 Q. Have you sold many cars since you've
11	Q. Is this something you did while you	11 been there, since October?
12	were in high school?	12 A. A good amount.
13	A. Yes.	13 Q. Would you be able to estimate
14	Q. Have you done anything post high	14 approximately?
15	school in terms of trainings for your	15 A. Roughly 17 a month.
16	profession?	16 Q. 17 cars per month?
17	A. Jobs, local jobs.	17 A. Yes.
18	Q. But no other educational courses,	18 Q. When you say you get 15 percent
19	seminars, trainings, anything like that?	19 commission, is that 15 percent of the total
20	A. No.	20 purchase price of the car?
21	Q. How long have you been in the	21 A. 15 percent of the total gross that's
22	automotive industry?	22 held.
23	A. About seven years.	23 Q. That's held by who?
24	Q. What year did you graduate high	24 A. By myself.

3 (Pages 9 to 12)

<p style="text-align: right;">Page 13</p> <p>1 Q. Can you explain how that works to me?      2 A. The car is sold at invoice -- well,      3 there's a price at invoice, and on top of that      4 there's an equipment charge. And I get a      5 percentage of the equipment charge. whatever      6 percentage I get to hold from that.</p> <p>7 Q. What is a standard equipment charge on      8 a --</p> <p>9 A. Depending on the make, model of      10 vehicle, it's all different. Anywhere from      11 \$3,000 to \$7,000.</p> <p>12 Q. When you say you get 15 percent of how      13 much you get to hold off of that, what do you      14 mean by hold it, hold the equipment charge?</p> <p>15 A. Whatever a customer agrees to a      16 figure.</p> <p>17 Q. I haven't bought many cars in my      18 lifetime, so you'll have to excuse me. What do      19 you mean by whatever they agree to a figure?</p> <p>20 A. Say the car is MSRP at 30 grand. An      21 invoice --</p> <p>22 MR. OLSON: Manufacturer's suggested      23 retail price.</p> <p>24 MS. TRAN: Thank you.</p>	<p style="text-align: right;">Page 15</p> <p>1 A. Yes.      2 Q. What was your salary while you were      3 there?      4 A. \$450.      5 Q. Per week?      6 A. Yes.      7 Q. Did you work a full-time schedule?      8 A. 40 hours a week.      9 Q. Did you work at Pride Chevrolet right      10 up until the time you took the job at Ira      11 Toyota?      12 A. No, I haven't.      13 Q. No?      14 A. No.      15 Q. So when did you leave Pride Chevrolet?      16 A. I left about in May.      17 Q. May of 2005?      18 A. Yeah.      19 Q. What did you do between the time that      20 you left Pride Chevrolet and the time you      21 started at Ira Toyota?      22 A. Collect unemployment.      23 Q. Were you terminated from Pride      24 Chevrolet?</p>
<p style="text-align: right;">Page 14</p> <p>1 A. And the invoice price is at 25,      2 there's a \$5,000 gross held in the vehicle. And      3 from there whatever I sell the car at, between      4 25 and 30 is what I make out of the deal, 15      5 percent.</p> <p>6 Q. So the difference between the MSRP and      7 then what you sell the car at you make 15      8 percent of that difference?</p> <p>9 A. Yes.</p> <p>10 Q. Where were you employed before you      11 were employed at Ira Toyota?</p> <p>12 A. Pride Chevrolet.</p> <p>13 Q. Where is Pride Chevrolet located?</p> <p>14 A. Lynn, Mass.</p> <p>15 Q. How long were you employed at Pride      16 Chevrolet?</p> <p>17 A. Year and a half.</p> <p>18 Q. What did you do there?</p> <p>19 A. Auto body technician.</p> <p>20 Q. What does that entail?</p> <p>21 A. Bodywork on vehicles.</p> <p>22 Q. Just bodywork, no engine work?</p> <p>23 A. No.</p> <p>24 Q. Did you make a set salary?</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Laid off.      2 Q. What reasons were you given for the      3 layoff, if any?      4 A. It was slow.      5 Q. Was anybody else laid off besides you?      6 A. People were getting laid off once a      7 week. One person a week was getting laid off.      8 Q. For about how long?      9 A. I'd say for a good two months.      10 Q. So from May of 2005 until October of      11 2005 you collected unemployment as a result of      12 the layoff from Pride Chevrolet?      13 A. Correct.      14 Q. What did you do before you were      15 employed at Pride Chevrolet?      16 A. I was employed by Firestone Automotive      17 Shop.      18 Q. Do you remember when you started at      19 Pride Chevrolet?      20 A. February of '04.      21 Q. Do you remember for how long you were      22 employed at Firestone Automotive Shop?      23 A. About a month and a half. I left      24 Firestone in January.</p>

<p style="text-align: right;">Page 17</p> <p>1 Q. January of what year?      2 A. About '05 -- '04.      3 Q. So you started there in December or      4 November of 2003?      5 A. November.      6 Q. Where is Firestone Automotive located?      7 A. Lawrence, Mass.      8 Q. What did you do while you were      9 employed by Firestone?      10 A. I was an automotive technician.      11 Q. What did that entail?      12 A. Maintenance work on vehicles,      13 tune-ups, and alignments.      14 Q. So unlike when you were at Pride      15 Chevrolet, this involved some engine work?      16 (Pause)      17 MR. OLSON: You need to respond.      18 A. Yes. I apologize.      19 Q. That's okay. Even those of us that do      20 this frequently often forget.      21 Did you have a set salary while you      22 were employed by Firestone?      23 A. It was a flat rate commission.      24 Q. Can you explain a flat rate commission</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. Why did you leave Firestone?      2 A. Great distance from home, back and      3 forth.      4 Q. Where were you living at that point?      5 A. 12 Eutaw.      6 Q. That was in Lynn?      7 A. Lynn, Mass., yes.      8 Q. Is that the only reason you left      9 Firestone?      10 A. Yes.      11 Q. Did you leave voluntarily?      12 A. Please elaborate.      13 Q. Did you leave voluntarily or were you      14 fired or terminated?      15 A. Oh, I just left voluntarily.      16 Q. Where were you employed before you      17 were employed at Firestone?      18 A. Sears.      19 Q. How long were you employed at Sears?      20 A. A year and a couple of months.      21 Q. And by Sears, you mean the Sears      22 located where?      23 A. Saugus, Massachusetts.      24 Q. I'm going to skip over that one for</p>
<p style="text-align: right;">Page 18</p> <p>1 to me?      2 A. Depending how many hours are given on      3 the job is what I get. Flat rate they give you      4 an hourly rate. And say the job is worth four      5 hours, you get four hours of what your pay is.      6 Q. By "the job," you mean the work that      7 you did on a particular car?      8 A. Yes.      9 Q. So they paid you an hourly rate for      10 however long it took you to complete each car?      11 A. Depending on how many hours they gave      12 you on that vehicle.      13 Q. Meaning they would set a limit as to      14 how much time it should take?      15 A. Yes.      16 Q. What was the hourly rate that you were      17 given?      18 A. \$13.75.      19 Q. Per hour?      20 A. Yes.      21 Q. So is it safe to say the more cars you      22 were able to complete in a given day, the more      23 money you would make?      24 A. Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 now, because we're going to come back to it, and      2 go to the job that you held prior to your job at      3 Sears. Where was that?      4 A. The job before Sears?      5 Q. Yes.      6 A. Ledgewood Nursing Rehabilitation.      7 Q. Where is Ledgewood Nursing      8 Rehabilitation?      9 A. Beverly, Massachusetts.      10 Q. What did you do at Ledgewood Nursing      11 Rehabilitation?      12 A. Training for a certified nursing      13 assistant.      14 Q. Did you work as a certificate nursing      15 assistant, or were you training as a certified      16 nursing assistant?      17 A. Training.      18 Q. Did you get paid for that work?      19 A. Yes, I did.      20 Q. What was your salary while you were      21 employed there?      22 A. \$12.      23 Q. Per hour?      24 A. Yes.</p>

<p>1 Q. What kind of work did you do at the 2 Ledgewood Nursing Rehab? 3 A. Take care of the elderly. 4 Q. What did that entail, generally? 5 A. Feed them, bathe them, help them out. 6 Q. How long were you employed there? 7 A. A little under two months. 8 Q. Do you remember when you left 9 Ledgewood? 10 A. June. 11 Q. Of what year? 12 A. I believe this is '03. 13 MR. OLSON: You'd better go back 14 another one. 15 MS. TRAN: Kurt, if you can let me... 16 MR. OLSON: Yes. Sorry. 17 Q. I'm confused then, because I doubt 18 it's June of 2003, so I want to clarify the year 19 because you left Sears in 2003, right? 20 A. I believe so. 21 Q. And you were employed by Sears for a 22 year and a half? 23 A. Then this is '02 then. This is while 24 I was in high school.</p>	<p>Page 21</p> <p>1 nursing assistant besides your work at 2 Ledgewood? 3 A. No. 4 Q. Why did you leave Ledgewood? 5 A. It wasn't a job for me. 6 Q. Did you leave voluntarily or were you 7 terminated? 8 A. Voluntarily. 9 Q. Were you working at Ledgewood while 10 you were in high school? 11 A. Yes. 12 Q. During the time that you worked at 13 Ledgewood, did you do any other automotive work 14 during that time? 15 A. Other than the program in school? 16 Q. Right. Anything that you were 17 employed by an outside employer for? 18 A. No. 19 Q. Where were you employed prior to being 20 employed by Ledgewood Nursing Rehab? 21 A. I don't understand. 22 Q. Were you employed someplace else prior 23 to your work at Ledgewood? 24 A. No.</p>
<p>Page 22</p> <p>1 Q. So you were employed at Ledgewood 2 before your employment at Sears, but they didn't 3 overlap; is that correct? 4 A. Correct. 5 Q. So approximately June of 2002 you left 6 Ledgewood? 7 A. Yes, 2002. 8 Q. Did you complete the training for the 9 certified nursing assistant? 10 A. Yes, I did. 11 Q. So are you now certified as a nursing 12 assistant? 13 A. Not really, no. 14 Q. Why are you not certified if you 15 completed the training? 16 A. It expired. 17 Q. So at some point you were certified as 18 a nursing -- 19 A. Yes, I was. 20 Q. If you can let me finish, even though 21 you know what I'm going to ask you so she can 22 record. 23 A. All right. 24 Q. Did you ever do any other work as a</p>	<p>Page 24</p> <p>1 Q. So that was your first job? 2 A. Oh, wait. Pep Boys. 3 Q. Pep Boys, P E P? 4 A. Yeah, P E P, boys. 5 Q. Where is Pep Boys? 6 A. Salem, Massachusetts. 7 Q. When were you employed by Pep Boys? 8 A. I want to say October. 9 Q. Of what year? 10 A. This is '01. 11 Q. Were you in high school at this time? 12 A. Yes. 13 Q. Do you remember approximately how old 14 you were? 15 A. 18. 16 Q. How long did you work at Pep Boys for? 17 A. Almost three months. 18 Q. Did you get that employment through 19 your school, or was it something that you got 20 separate from school? 21 A. Separate. 22 Q. What did you do while you were 23 employed at Pep Boys? 24 A. Maintenance technician.</p>

<p style="text-align: right;">Page 25</p> <p>1 Q. What did that entail?      2 A. Tires, oil changes, batteries.      3 Q. Did you receive a salary while you      4 were employed there?      5 A. Yes.      6 Q. What was that salary?      7 A. \$400.      8 Q. Per week?      9 A. Per week.      10 Q. Why did you leave your employment at      11 Pep Boys?      12 A. Termination.      13 Q. What were you terminated for?      14 A. Being late.      15 Q. Was that the only reason you were      16 terminated?      17 A. Yes.      18 Q. How frequently were you late?      19 A. Out of a week -- I'd say twice a week      20 because of school.      21 Q. So was it the case that your school      22 schedule conflicted with your work schedule?      23 A. Yes. I didn't have a car at the time.      24 Q. How did you get to work?</p>	<p style="text-align: right;">Page 27</p> <p>1 automotive technician?      2 A. It was still car business, but I      3 wanted to try something new.      4 Q. Is that the only reason that you      5 decided to do the car sales?      6 A. I'd say so.      7 Q. You'd say so?      8 A. It's more mental work than physical      9 work.      10 Q. If you wanted to, do you think you      11 would be able to get a job as an automotive      12 technician today?      13 A. Yes.      14 Q. Have you ever had any trouble getting      15 work as an automotive technician?      16 A. No.      17 Q. Do you like car sales?      18 A. Yes.      19 Q. Have you ever been involved in any      20 other civil lawsuits?      21 A. Yes.      22 Q. What were they? Let's take them one      23 at a time starting with the earliest one.      24 A. Car accident.</p>
<p style="text-align: right;">Page 26</p> <p>1 A. Walk.      2 Q. Have you ever been reprimanded at any      3 other job for being late?      4 A. No.      5 Q. Were you employed anywhere else prior      6 to your employment at Pep Boys?      7 A. Burger King. My first job.      8 Q. That was your first job?      9 A. Yes.      10 Q. Do you remember approximately how long      11 you were employed at Burger King?      12 A. No, I don't.      13 Q. Do you remember where that Burger King      14 was located?      15 A. Salem, Massachusetts.      16 Q. Did you leave that job voluntarily or      17 were you terminated?      18 A. Voluntarily.      19 Q. You previously testified that you're      20 currently employed as a car salesman at Ira,      21 correct?      22 A. Correct.      23 Q. Why did you decide to become a car      24 salesman as opposed to continuing on as an</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. When approximately was the car      2 accident?      3 A. I don't remember.      4 Q. Do you remember the year?      5 A. No, I don't.      6 Q. Do you remember roughly how long ago      7 it was?      8 A. No -- yeah. Four, five years back.      9 I'm not quite sure.      10 Q. Were you driving or were you a      11 passenger in that accident?      12 A. A passenger. No. I was driving.      13 Q. Were you driving your own car or      14 somebody else's car?      15 A. It was my car.      16 Q. What car was it?      17 A. I apologize. I was a passenger.      18 Q. The first accident?      19 A. The first one I was a passenger.      20 Q. Were you injured as a result of that      21 accident?      22 A. Yes.      23 Q. Were there any fatalities as a result      24 of that accident?</p>

	Page 29		Page 31
1	A. No, there wasn't.	1	A. No.
2	Q. Did you file a lawsuit as a result of	2	Q. How many other civil lawsuits have you
3	that accident?	3	been involved in besides the car accident that
4	A. Yes, I did.	4	we were just discussing?
5	Q. Who did you sue?	5	A. Another car accident.
6	A. I don't remember. The person that hit	6	Q. Do you remember approximately when
7	us.	7	that car accident took place?
8	Q. What were your injuries as a result of	8	A. Not really, but it was right after the
9	that accident?	9	first one, not too long.
10	A. Back and neck problems.	10	Q. Within a year of the first one?
11	Q. Did you treat with anybody?	11	A. Maybe a little more than a year.
12	A. A chiropractor.	12	Q. Were you a passenger or a driver in
13	Q. Do you remember approximately how long	13	that accident?
14	you treated with the chiropractor for?	14	A. I was the driver.
15	A. No.	15	Q. Were you driving your own car or
16	Q. Did you settle that lawsuit?	16	somebody else's car?
17	A. Yes.	17	A. My own car.
18	Q. Do you remember for how much money?	18	Q. What car was it?
19	A. No.	19	A. Audi A4.
20	Q. Do you remember what year you settled	20	Q. Did you sue somebody as a result of
21	the lawsuit?	21	that car accident?
22	A. No.	22	A. Yes.
23	Q. Do you remember what city or town or	23	Q. Who did you sue?
24	county the lawsuit was brought in?	24	A. The other person's insurance company.
	Page 30		Page 32
1	A. No.	1	Q. By other person, do you mean the other
2	MS. TRAN: Can you give me one second?	2	driver?
3	I'm missing one document. Thanks.	3	A. The vehicle was stolen, but...
4	(Exhibits 1 through 4 marked	4	Q. The person that you sued, when you
5	for identification)	5	said "the other person's insurance company," did
6	MS. TRAN: I've marked as Exhibit No.	6	you mean the driver of the other car that was
7	I the plaintiff's response to the defendant	7	involved in the accident, their insurance
8	Sears, Roebuck & Co.'s first set of	8	company?
9	interrogatories. Marked as Exhibit No. 2 is the	9	A. Yes.
10	Plaintiff's response to defendant Sears, Roebuck	10	Q. I'm sorry. Was it the driver of the
11	& Co.'s first request for production of	11	accident's insurance company or was it the owner
12	documents. Marked as Exhibit No. 3 is the	12	of the car's insurance company. Do you
13	plaintiff's response to defendant Gary	13	remember?
14	Mansfield's first set of interrogatories.	14	A. The owner of the car's insurance
15	Marked as Exhibit No. 4 is the plaintiff's	15	company.
16	response to defendant Gary Mansfield first	16	Q. And the owner of the car and the
17	request for production of documents.	17	driver were not the same person; is that
18	Q. Eric, I'm going to show you what's	18	correct?
19	been marked as Exhibit No. 3, particularly	19	A. No.
20	Answer No. 6 on Page 2 which has a listing of	20	Q. Were you injured as a result of that
21	civil lawsuits that you've been involved in.	21	accident?
22	That first car accident we were just	22	A. Yes, I was.
23	discussing, do you know which one of those	23	Q. What injuries did you sustain?
24	lawsuits is relative to that first car accident?	24	A. My whole left side.

	Page 33		Page 35
1	Q. What do you mean by "left side"?	1	Q. Did you settle that second lawsuit?
2	A. My neck, arm, my back, my face.	2	A. Yes.
3	Q. What damage was done to your neck,	3	Q. For how much?
4	your back, your arm and your face?	4	A. I don't remember.
5	A. Just pain.	5	Q. Do you remember if it was over \$5,000?
6	Q. But no open wounds or scarring or	6	A. No, I don't remember.
7	anything like that?	7	Q. Do you remember if it was over
8	A. Yes.	8	\$10,000?
9	Q. Yes, what?	9	A. Not that high.
10	A. Couple of cuts.	10	Q. So somewhere between zero and \$10,000?
11	Q. Where were the cuts?	11	A. Yes.
12	A. In my arm.	12	Q. When I say somewhere between zero and
13	Q. Were they severe cuts or were they	13	\$10,000, I mean \$10,000 that settled for the
14	scratches?	14	total, not how much you got out of the
15	A. Scratches.	15	settlement. Do you understand that distinction?
16	Q. Did you treat with a doctor as a	16	A. Yes.
17	result of those injuries?	17	Q. With regard to the first lawsuit, you
18	A. Yes.	18	say you settled that one as well. Was that one
19	Q. Who did you treat with?	19	more than \$5,000?
20	A. The hospital, the emergency room.	20	A. I don't know.
21	Q. What hospital were you taken to?	21	Q. Was it for more than \$10,000?
22	A. Salem, Mass.	22	A. I know it wasn't more than \$10,000.
23	Q. Going back to the first accident that	23	Q. It wasn't more than \$10,000?
24	we discussed, were you taken to a hospital as a	24	A. Yeah.

	Page 34		Page 36
1	result of that accident?	1	Q. So somewhere between zero and \$10,000
2	A. Yes.	2	for the second one?
3	Q. What hospital were you taken to in	3	A. Yes.
4	that first accident?	4	Q. Have you ever been involved in any
5	A. Salem, Mass.	5	other lawsuits, civil lawsuits?
6	Q. I don't want to know any discussions	6	A. No.
7	that you've had with any attorneys who have	7	Q. I'm going to show you again what's
8	represented you, but were you represented by an	8	been marked as Exhibit No. 3, again referencing
9	attorney for that first car accident?	9	Answer No. 6, the last two lawsuits listed?
10	A. Yes.	10	A. Mm-hmm.
11	Q. What was the name of that attorney?	11	Q. Are those the two civil lawsuits we've
12	A. Mike Maloney.	12	just been discussing? Souvannakane versus
13	Q. Where is Mike Maloney located?	13	Njuguna, and the second one is Souvannakane
14	A. Lynn, Mass.	14	versus Hernandez.
15	Q. Were you represented by an attorney in	15	A. Mm-hmm.
16	your lawsuit regarding the second accident?	16	Q. Are those the only two civil lawsuits
17	A. Repeat that question?	17	that you've been involved in?
18	Q. Were you represented by an attorney in	18	A. At this point I'm confused.
19	your lawsuit regarding the second accident?	19	Q. Those two lawsuits listed there, the
20	A. Yes.	20	ones that I just mentioned?
21	Q. What's the name of that attorney?	21	A. Yeah.
22	A. Mike Maloney.	22	Q. Are those the only two civil lawsuits
23	Q. Same Mike from the first accident?	23	that you've ever been involved in?
24	A. Yes.	24	A. Yes, I guess.

1 Q. You guess. What's confusing you?  
 2 A. The first one here, Commonwealth  
 3 versus Souvannakane.  
 4 Q. Commonwealth versus Souvannakane, any  
 5 lawsuit that's brought -- typically any lawsuit  
 6 brought by the Commonwealth of Massachusetts  
 7 against an individual is a criminal lawsuit.  
 8 I'm not asking you about criminal things right  
 9 now. I'm only asking you about civil lawsuits.  
 10 A. Oh yeah, those two there.  
 11 Q. So those two are the two lawsuits  
 12 we're discussing?  
 13 A. Yes.  
 14 Q. But you don't know which one relates  
 15 to which accident?  
 16 A. No. These are the dates marked right  
 17 there, right?  
 18 Q. Those are the dates that they were  
 19 settled, but whether or not those were the dates  
 20 that they took place on, I don't know.  
 21 A. Okay.  
 22 Q. Do you happen to know?  
 23 A. No.  
 24 Q. Have you ever been involved in --

1 Q. I'm going to show you what's been  
 2 marked as Exhibit No. 4. These are document  
 3 responses that you submitted to discovery  
 4 requests by Officer Mansfield.  
 5 I'll show you what is tabbed as  
 6 response to Request No. 12 of that document  
 7 request. Just take a look at it for me.  
 8 A. All this (indicating)?  
 9 Q. Yes. Take your time.  
 10 A. Mm-hmm.  
 11 Q. Not that it matters, I'm going to give  
 12 you the marked copy. It's the same thing. Just  
 13 take a look at the one that's marked.  
 14 (Pause)  
 15 A. Which one do you want me to look at?  
 16 Q. Look at the whole thing. Take your  
 17 time reviewing it. There's a page after that as  
 18 well.  
 19 A. Okay.  
 20 (Pause)  
 21 Q. I haven't asked you any questions yet.  
 22 So feel free to look at it, and then I'll ask  
 23 you questions.  
 24 A. I'm done.

1 strike that.  
 2 Have you ever been charged with a  
 3 felony in the last ten years?  
 4 A. No.  
 5 Q. Have you ever been charged with a  
 6 misdemeanor?  
 7 A. I want to say no, but I'm not sure.  
 8 Q. Have you ever been criminally charged  
 9 for a crime?  
 10 A. Yes.  
 11 Q. What were you charged with?  
 12 A. I don't know if it was vehicular  
 13 homicide. Leaving the scene of an accident.  
 14 Q. Are those two separate charges?  
 15 A. Yes.  
 16 Q. So you were charged once with  
 17 vehicular homicide and once with leaving the  
 18 scene of a accident?  
 19 A. Yes.  
 20 Q. Did they arise out of the same set of  
 21 circumstances or were they two different events?  
 22 A. Same situation.  
 23 Q. Any other charges?  
 24 A. At this point, I don't remember.

1 Q. On the top it's identified as the  
 2 record information as of 1/11/2006. I think  
 3 that date is accurate. It's cut off a bit.  
 4 MR. OLSON: Mm-hmm.  
 5 Q. Going down the list, there's a charge  
 6 for July 7, 2004 to compulsory insurance  
 7 violation. Do you remember that charge?  
 8 A. It's rings a bell, but I'm not so sure  
 9 what that is for.  
 10 Q. Do you remember appearing in court as  
 11 a result of that charge?  
 12 A. No.  
 13 Q. Do you remember any penalty or any  
 14 adverse action taken against you as a result of  
 15 that charge either by the Commonwealth of  
 16 Massachusetts or by your insurance company?  
 17 A. No.  
 18 Q. Do you remember being arrested as a  
 19 result of that charge?  
 20 A. No.  
 21 Q. Going down to the next one, which is  
 22 also dated July 7, 2004, there's an offense for  
 23 attaching the wrong MV plates?  
 24 A. Yes.

<p style="text-align: right;">Page 41</p> <p>1 Q. Do you remember that charge?      2 A. Yes.      3 Q. Do you remember being arrested as a      4 result of that charge?      5 A. No.      6 Q. Do you remember any adverse action      7 taken against you as a result of that charge,      8 any fines you had to pay?      9 A. Yes.      10 Q. Did you have to appear in court as a      11 result of that charge?      12 A. Yes.      13 Q. What resulted from that court      14 appearance?      15 A. Pay a fine.      16 (Inaudible comment made by witness      17 to Attorney Olson)      18 Q. Just to be clear, I know you want      19 to -- he actually can't talk to you during the      20 course of the deposition. So if you want to      21 talk to him, take a break, that's totally fine.      22 He can't answer any questions as I ask you      23 questions or confirm things for you, even though      24 he may want to.</p>	<p style="text-align: right;">Page 43</p> <p>1 A. Yes.      2 Q. What were the circumstances      3 surrounding that, briefly, surrounding that      4 charge?      5 A. I don't understand.      6 Q. You were arrested. Where were you      7 when you were arrested?      8 A. In jail.      9 Q. You were arrested while you were in      10 jail? Where were you when you were arrested for      11 the charge?      12 A. Revere.      13 Q. And were you arrested because at the      14 time that the police arrived for whatever reason      15 you had alcohol on you?      16 A. Say that again.      17 Q. Why were you arrested?      18 A. The cop pulled me over.      19 Q. So you were pulled over for a traffic      20 stop?      21 A. Yeah.      22 Q. How old were you, do you remember?      23 A. I don't remember.      24 Q. Well, if it's March 24, 2004, how old</p>
<p style="text-align: right;">Page 42</p> <p>1 A. I don't have a question there.      2 Q. You had to pay a fine as a result of      3 attaching the wrong MV plates, and then that was      4 it?      5 A. Yes.      6 Q. Moving down to the next one dated      7 March 24, 2004 for malicious destruction of      8 property, do you remember being arrested as a      9 result of that charge?      10 A. No.      11 Q. Did you have to appear in court as a      12 result of that charge?      13 A. Yes.      14 Q. Is that the charge relating to the oil      15 spill at Sears?      16 A. Yes.      17 Q. We'll come back to that one later on      18 in the deposition.      19 Moving down, June 27, 2003, minor      20 possession of alcoholic beverage, and then      21 there's some letters that I don't know what      22 they're supposed to stand for.      23 Do you remember being arrested as a      24 result of that charge?</p>	<p style="text-align: right;">Page 44</p> <p>1 would you have been?      2 A. 19 or 20. Maybe 21. Obviously 20.      3 MR. OLSON: June '03, not '04.      4 MS. TRAN: You're right. I'm sorry.      5 June '03.      6 A. I was a minor with alcohol, under 21.      7 Q. So you were under 21 years old, and      8 you had alcohol in the car when you were pulled      9 over?      10 A. Yes, I did. My passenger did.      11 Q. I'm sorry, what was that?      12 A. My passenger did.      13 Q. How many passengers were in the car      14 with you?      15 A. Two.      16 Q. Were all three of you arrested?      17 A. No, just me.      18 Q. Were the other two passengers over the      19 age of 21?      20 A. No.      21 Q. And did you have to appear in court as      22 a result of that charge?      23 A. Yes.      24 Q. What was the result of that court</p>

1 appearance?  
 2 A. Pay a fine.  
 3 Q. Were you ever convicted of anything as  
 4 a result of that charge, to your knowledge?  
 5 A. No. Convicted as of?  
 6 Q. Meaning was there a guilty charge on  
 7 your record or not that you know of?  
 8 A. I don't know of.  
 9 Q. Next going down the list is July 24,  
 10 2002. The offense is listed as possession  
 11 Class D, C O N T, substance. I assume that  
 12 means controlled substance. Were you arrested  
 13 as a result of that charge?  
 14 A. No.  
 15 Q. Did you have to appear in court as a  
 16 result of that charge?  
 17 A. Yes.  
 18 Q. What resulted from that court  
 19 appearance?  
 20 A. Fine.  
 21 Q. Do you remember approximately how old  
 22 you were at that time?  
 23 A. No.  
 24 Q. What were the circumstances -- well,

1 Q. Going down the list, we have August 3,  
 2 2001. The offense is listed as HOM BY MV while  
 3 under the influence of liquor. I assume that  
 4 means homicide by motor vehicle while under the  
 5 influence of liquor.  
 6 Do you remember being arrested as a  
 7 result of that charge?  
 8 A. Yes.  
 9 Q. What were the circumstances of that  
 10 arrest?  
 11 A. I don't know. All the charges was  
 12 dropped, so...  
 13 Q. Understanding they were dropped, what  
 14 were the circumstances of the arrest?  
 15 A. I don't really understand.  
 16 Q. Were you arrested as a result of a car  
 17 accident?  
 18 A. Not a car accident -- yeah, car  
 19 accident, I guess.  
 20 Q. Were you driving or were you a  
 21 passenger in that?  
 22 A. I was the driver.  
 23 Q. Did you hit another car or a person?  
 24 A. A person hit me.

1 you weren't arrested. How were you charged with  
 2 the offense?  
 3 A. I don't remember. It's right there.  
 4 Possession of Class D.  
 5 Q. I know what the offense is. How did  
 6 you get notice of the court hearing?  
 7 A. Citation.  
 8 Q. When was the citation issued?  
 9 A. The night we got pulled over.  
 10 Q. So it was again a motor vehicle stop  
 11 and a police officer issued a citation?  
 12 A. Yes.  
 13 Q. And then you had to appear in court as  
 14 a result of that citation?  
 15 A. Yes.  
 16 Q. Did you have passengers in the car  
 17 with you at that time?  
 18 A. I was a passenger.  
 19 Q. How many people were in the car with  
 20 you?  
 21 A. The driver.  
 22 Q. What was the substance that you were  
 23 cited for?  
 24 A. Marijuana.

1 Q. A person or car hit you?  
 2 A. A person.  
 3 Q. So a pedestrian walking hit your car?  
 4 A. Basically.  
 5 Q. While you were driving?  
 6 A. Yeah. It doesn't make sense, but it  
 7 makes sense.  
 8 Q. What were the circumstances of that  
 9 accident?  
 10 A. Fatal.  
 11 Q. The pedestrian who hit you while you  
 12 were driving your car died?  
 13 A. Yes.  
 14 Q. Do you remember having to appear in  
 15 court as a result of that charge?  
 16 A. Yes.  
 17 Q. What resulted from that court hearing?  
 18 A. Everything was dropped.  
 19 Q. Were you put on probation?  
 20 A. No.  
 21 Q. Do you know why the charges were  
 22 dropped?  
 23 A. It wasn't my fault.  
 24 Q. Is that what the judge or the court

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1 said to you, or is that why you think the  
 2 charges were dropped?  
 3 A. That's what basically why they dropped  
 4 the charges.  
 5 Q. Was that the reason given to you?  
 6 A. To the best of my knowledge, yes.  
 7 Q. On the same date there's also a  
 8 separate offense for leaving the scene, person  
 9 injured. Is that relating to the motor vehicle  
 10 accident that resulted in the fatality?  
 11 A. Yes.  
 12 Q. Did you, in fact, leave the scene?  
 13 A. Yes.  
 14 Q. If you left the scene after the person  
 15 was injured, how were you arrested? Were you  
 16 arrested later by the police?  
 17 A. I called the police.  
 18 Q. So did you call police when you got  
 19 home?  
 20 A. Yes.  
 21 Q. Did you know you had hit somebody when  
 22 you were at the scene?  
 23 A. No.  
 24 Q. So why did you call the police when

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1 you got home?  
 2 A. I was attacked.  
 3 Q. By whom?  
 4 A. A large group of drunk teenage  
 5 individuals.  
 6 Q. Attacked in your home?  
 7 A. No, in my car at the scene.  
 8 Q. Before or after the accident?  
 9 A. Before and after.  
 10 Q. Where were you coming from when the  
 11 accident happened?  
 12 A. I was coming from the scene of the  
 13 accident.  
 14 Q. Where was the scene of the accident?  
 15 A. In Lynn.  
 16 Q. Where in Lynn?  
 17 A. I don't remember.  
 18 Q. You don't know where the accident  
 19 occurred?  
 20 A. I don't know the exact address.  
 21 Q. That's okay. Can you give me a  
 22 landmark where approximately it was? Were you  
 23 at a friend's house, were you driving on the  
 24 road?

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1 A. I was at a party, I guess.  
 2 Q. Why were you attacked?  
 3 A. No idea.  
 4 Q. So you called the police because of  
 5 the attack but not because of the accident; is  
 6 that correct?  
 7 A. Correct.  
 8 Q. Next one, same date, the offense is  
 9 listed as operating recklessly. I assume that's  
 10 also related to the same accident?  
 11 A. Mm-hmm.  
 12 Q. Can you run through very briefly what  
 13 happened that night? I'm just trying to  
 14 understand the circumstances.  
 15 A. Went to a house party -- I'll answer  
 16 your question to the best of my knowledge.  
 17 Q. That's okay.  
 18 A. Went to a house party that my cousin  
 19 told me to come by, checked it out, stepped  
 20 inside, all hell broke loose; stepped inside the  
 21 vehicle to get away, bats, glass, whatever  
 22 was -- I was in the car. I was being attacked,  
 23 people jumping on the car, breaking windows.  
 24 Threw it in drive trying to get away, couldn't

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1 do nothing, too many people, foot on the brake,  
 2 didn't know what to do. I released the brake  
 3 pedal. From there, I went home.  
 4 Q. When you said you stepped into the  
 5 party, all hell broke loose. What do you mean  
 6 by that?  
 7 A. Stepped inside and all hell broke  
 8 loose.  
 9 Q. What do you mean by "all hell broke  
 10 loose"?  
 11 A. It was out of control.  
 12 Q. What was out of control?  
 13 A. The individuals that were inside the  
 14 house.  
 15 Q. And by "out of control," what were  
 16 they doing?  
 17 A. Drugs.  
 18 Q. There were drugs at the house at the  
 19 party?  
 20 A. I'm pretty sure there was.  
 21 Q. Is that what you mean when you say  
 22 "all hell broke loose"?  
 23 A. It was out of the control. I don't  
 24 understand.

13 (Pages 49 to 52)

1 Q. Well, when you say "all hell broke  
 2 loose," I assume that's the reason why you left  
 3 the party and went to your car; is that correct?

4 A. Yes.

5 Q. So what specifically caused you to  
 6 leave the party and go to your car?

7 A. It wasn't an environment for me.

8 Q. And do you know why the people from  
 9 the party followed you out?

10 A. No.

11 Q. So you go to a party. And when you  
 12 get there, you decide the environment is not for  
 13 you, and you turn around and leave, and people  
 14 randomly just come out and start beating on the  
 15 car and start attacking you with bats and glass?

16 A. Yes.

17 Q. And then when you are leaving, they  
 18 are still on the car, so you go because you  
 19 don't know what else to do, and you don't know  
 20 that you hit somebody; is that correct?

21 A. Correct.

22 Q. And then you go home and call the  
 23 police because you've been attacked?

24 A. Correct.

1 Do you remember being arrested as a  
 2 result of that incident?

3 A. Yes.

4 Q. Were you arrested at the scene of  
 5 wherever that incident took place?

6 A. Yes.

7 Q. What were the circumstances  
 8 surrounding that arrest?

9 A. Confusion, but...

10 Q. What do you mean by that?

11 A. I don't really remember, but there was  
 12 a lot of confusion. That's all I know.

13 Q. Where were you arrested when you were  
 14 arrested for disturbing the peace?

15 A. Salem, Mass.

16 Q. Where was the exact address?

17 A. I don't remember.

18 Q. Where you at a friend's house?

19 A. Walking through to go to a friend's  
 20 house.

21 Q. Walking down the street to go to a  
 22 friend's house?

23 A. Walking inside the apartment to go to  
 24 a friend's house.

1 Q. But you have no understanding why you  
 2 were attacked?

3 A. To this day, yes.

4 Q. Were you yourself using drugs or  
 5 alcohol that evening?

6 A. No.

7 Q. Nothing?

8 A. A little bit of beer, but that's about  
 9 it. Not enough to be drunk.

10 Q. But enough to be under the influence  
 11 of liquor, as you were charged?

12 A. No.

13 Q. How much beer did you have that night?

14 A. Two bottles. That's well before all  
 15 this took place, anyway.

16 Q. So there's that incident with the --  
 17 okay. Strike that. Moving on.

18 We'll go to the next one which is  
 19 dated, on this same list, which is dated October  
 20 24, 2000. The offense is listed as disturbing  
 21 the peace?

22 A. Mm-hmm.

23 Q. Then in parens it says breach, and  
 24 then in parens again it says DP.

1 Q. So you were inside the apartment  
 2 building?

3 A. Yes.

4 Q. Why were you arrested for disturbing  
 5 the peace?

6 A. Officer stopped me and asked me some  
 7 questions.

8 Q. The officer inside the apartment  
 9 building stopped you and asked you questions?

10 A. Yes.

11 Q. Why did he stop you?

12 A. To get information that I didn't know  
 13 what the hell he was talking about.

14 Q. You'll have to explain. I don't  
 15 understand what you're talking about, so you'll  
 16 have to explain. Why did he stop you?

17 A. To get information that I don't...

18 Q. He randomly wanted information from  
 19 you?

20 A. Yeah.

21 Q. What happened after he stopped you?

22 A. Told don't go nowhere. He went to go  
 23 check a couple of apartments to see what's  
 24 really going on, and that was it.

<p style="text-align: right;">Page 57</p> <p>1 Q. That's all that happened? Why were 2 you arrested? 3 A. Came back at me, came back and just 4 took us in. 5 Q. So you were peacefully walking through 6 the apartment building and randomly stopped by a 7 police officer and he arrested you for reasons 8 you can't understand? 9 A. Yes. 10 Q. It seems to happen a lot, 11 Mr. Souvannakane. 12 The next offense is dated October 24, 13 2000, resisting arrest. I assume that's related 14 to the same incident where you were arrested for 15 disturbing the peace? 16 A. Yes. 17 Q. Did you, in fact, resist arrest? 18 A. No. 19 Q. Why did he charge you for resisting 20 arrest, do you know? 21 A. They didn't even know why they took me 22 in. They had to think five minutes for the 23 charge, and that was it. 24 Q. So, again, you were charged with</p>	<p style="text-align: right;">Page 59</p> <p>1 other crimes besides the ones listed on that 2 sheet? 3 A. Right here (indicating)? 4 Q. Yes. 5 A. No. 6 Q. Have you ever been convicted of any of 7 the offenses that you were charged for that are 8 listed on that sheet? 9 A. Convicted, as in? 10 Q. Found guilty. To your knowledge, do 11 you have a conviction on your record? 12 A. To the best of my knowledge, I don't 13 even know. 14 Q. Aside from the few times that you were 15 arrested and I assume spent some time in jail as 16 a result of those arrests, have you ever spent 17 any time in jail as a result of any of the 18 offenses that are listed on that sheet in front 19 of you? 20 A. Yes. 21 Q. The time that you spent in jail, was 22 that time in holding cells after you were 23 arrested waiting to go to court or was it any 24 longer length of time?</p>
<p style="text-align: right;">Page 58</p> <p>1 resisting arrest, but you didn't actually resist 2 an arrest, and nobody understands why you were 3 charged for it? 4 A. No. They handcuffed me. 5 Q. What happened when they handcuffed 6 you? 7 A. What else? What could I do? 8 Q. Did you resist arrest? 9 A. No. 10 Q. Did you have to appear in court as a 11 result of those charges? 12 A. Yeah. 13 Q. What resulted from that court 14 appearance? 15 A. Six month without a finding. 16 Q. So probation for six months; then 17 assuming you don't get into trouble during that 18 time, it's not -- it's no finding, nothing on 19 your record; is that correct? 20 A. Yes. 21 Q. Did you complete the terms of your 22 probation? 23 A. Yes. 24 Q. Have you ever been charged with any</p>	<p style="text-align: right;">Page 60</p> <p>1 A. Holding. 2 MS. TRAN: I'm going to take a very 3 brief bathroom break. 4 (Recess taken) 5 BY MS. TRAN: 6 Q. Do you remember when you were hired by 7 Sears? 8 A. August. 9 Q. Of what year? 10 A. At this point in time, I want to say 11 '03, '04. 12 Q. So it was either 2003 or 2004? 13 A. Yes. 14 Q. You previously testified that you were 15 employed by Sears for about a year and a half? 16 A. Year and a couple of months. 17 Q. And were you terminated from Sears in 18 October of 2003? 19 A. Yes. 20 Q. So then is it accurate to say that you 21 were hired in August of 2002? 22 A. Sure. 23 Q. Sure, that's correct? 24 A. Yes, correct.</p>

<p style="text-align: right;">Page 61</p> <p>1 Q. And what was your job title at Sears?      2 A. Tire tech and oil lube tech, battery      3 tech, maintenance tech.      4 Q. Were those titles that you held all at      5 the same time, or were they titles that you held      6 separately?      7 A. All at the same time.      8 Q. What did your job responsibilities at      9 Sears entail?      10 A. Tires, oil changes, batteries.      11 Q. Was it unusual at Sears at that time      12 for one person to hold that many positions or      13 was it something that was common?      14 A. I'd say common to me.      15 Q. What do you mean by common to you?      16 A. Something I can handle.      17 Q. Did anybody else hold more than one      18 position or more than one title?      19 A. Yes.      20 Q. Do a lot of other auto techs hold more      21 than one title or just a few?      22 A. A few.      23 Q. Do you remember who they were?      24 A. No.</p>	<p style="text-align: right;">Page 63</p> <p>1 what does that entail, what type of things?      2 A. Tires, oil changes and batteries, yes.      3 Q. By "tires," what do you mean?      4 A. Swapping them and repairing them.      5 Q. And when you say "batteries," what do      6 you mean?      7 A. Recharge or replace.      8 Q. When you say "oil changes," you mean      9 standard oil changes?      10 A. Yes.      11 Q. Did you do alignments and things like      12 that or just the oil changing?      13 A. Just those three titles.      14 Q. If somebody came in for a full oil      15 change that included a tire alignment, would you      16 do the tire alignment, too, or would you just do      17 the oil change?      18 A. I would do what I'm capable of doing,      19 then I would pass it on to the alignment tech.      20 MR. OLSON: Just a second.      21 MS. TRAN: Sure.      22 (Counsel conferred with witness)      23 A. Just to run it back and clarify      24 something. When you asked me about tire</p>
<p style="text-align: right;">Page 62</p> <p>1 Q. Do you remember any of them?      2 A. No.      3 Q. Did you have a set schedule when you      4 were working at Sears?      5 A. Yes.      6 Q. Did that schedule change during the      7 course of your employment or was it the same for      8 the entire time?      9 A. Same for the entire time.      10 Q. What was that schedule?      11 A. I don't remember.      12 Q. Did you work weekends as well as      13 weekdays?      14 A. Yes.      15 Q. Do you remember if you worked standard      16 nine to five shifts or if you worked evening      17 shifts?      18 A. I don't remember. Some -- go ahead.      19 Q. Do you remember how many hours a week      20 you worked when you were employed by Sears?      21 A. I would say 40. I was full time.      22 Q. An average day at Sears, what kind of      23 work did you do? I know you said you did oil      24 changes and changed tires and batteries. But</p>	<p style="text-align: right;">Page 64</p> <p>1 alignments, what do you mean?      2 Q. I'm sorry?      3 A. When you asked me about tire      4 alignments, what did you mean?      5 Q. What I meant was you had said earlier      6 that you changed tires and repaired tires. Did      7 you also do alignment of tires?      8 A. Alignment is a whole different thing      9 from the tires.      10 Q. I understand that. Did you also      11 align, or did you just do repairs and changing      12 of the tires?      13 A. What I did was I did the tire work on      14 the vehicle, and from there the alignment tech      15 does the alignment, aligns the suspension.      16 Q. Were you limited to any one area of      17 the automotive shop when you were working or did      18 you work in more than one?      19 A. More than one.      20 Q. Were there any areas of the auto shop      21 that you didn't work in?      22 A. Yeah. Actually, no. I worked in all      23 areas.      24 Q. And by areas you understand I mean the</p>

<p style="text-align: right;">Page 65</p> <p>1 physical locations of the shop?</p> <p>2 A. Mm-hmm.</p> <p>3 MR. CLOHERTY: You have to say yes or</p> <p>4 no.</p> <p>5 A. Yes.</p> <p>6 Q. Were there specific areas set up in</p> <p>7 the automotive shop when you were working there</p> <p>8 to do tires and specific areas for oil changes</p> <p>9 and specific areas for battery changes?</p> <p>10 A. Correct.</p> <p>11 Q. Did those areas ever overlap?</p> <p>12 A. Yes.</p> <p>13 Q. Same thing, were there specific areas</p> <p>14 for alignments and other type of work done?</p> <p>15 A. Correct.</p> <p>16 Q. Were those areas ever used</p> <p>17 interchangeably?</p> <p>18 A. If it had to be done, yes.</p> <p>19 Q. While you were employed by Sears, who</p> <p>20 was your direct supervisor?</p> <p>21 A. I was employed by a manager named</p> <p>22 Rick; then from there another manager took over</p> <p>23 named Anthony.</p> <p>24 Q. And do you know what Rick's last name</p>	<p style="text-align: right;">Page 67</p> <p>1 MS. NETSKI: I'm sorry, what?</p> <p>2 THE WITNESS: Service writer.</p> <p>3 Q. What does a service writer mean?</p> <p>4 A. Person who writes up labor work from a</p> <p>5 customer.</p> <p>6 Q. Did he actually do any of the labor</p> <p>7 work, or did he actually write it up?</p> <p>8 A. He wrote it up, no labor work.</p> <p>9 Q. Did Kevin ever supervise you during</p> <p>10 the course of your employment?</p> <p>11 A. I'll say yes.</p> <p>12 Q. You'll say yes or yes?</p> <p>13 A. Yes.</p> <p>14 Q. So yes, Kevin did supervise you?</p> <p>15 A. I would say he was left in charge.</p> <p>16 Q. What do you mean by "left in charge"?</p> <p>17 A. Watch the store until the manager gets</p> <p>18 back.</p> <p>19 Q. Was he frequently left in charge in</p> <p>20 that manner?</p> <p>21 A. No.</p> <p>22 Q. When you say "watch the store until</p> <p>23 the manager gets back," does that include the</p> <p>24 automotive section of the store or just the</p>
<p style="text-align: right;">Page 66</p> <p>1 was?</p> <p>2 A. No. I don't remember.</p> <p>3 Q. Was he your direct supervisor when you</p> <p>4 were first employed?</p> <p>5 A. Yes.</p> <p>6 Q. Do you remember about how long you</p> <p>7 were employed at Sears when he left?</p> <p>8 A. I don't remember.</p> <p>9 Q. Do you remember what Anthony's last</p> <p>10 name was?</p> <p>11 A. No.</p> <p>12 Q. Do you know who William Sullivan is?</p> <p>13 A. No.</p> <p>14 Q. Do you know if he's a Sears employee?</p> <p>15 A. No.</p> <p>16 Q. Have you ever heard the name before?</p> <p>17 A. No.</p> <p>18 Q. Do you know who Kevin Sullivan is?</p> <p>19 A. Yes.</p> <p>20 Q. Who is he?</p> <p>21 A. A fellow employee, was a fellow</p> <p>22 employee.</p> <p>23 Q. What was his position with Sears?</p> <p>24 A. Service writer.</p>	<p style="text-align: right;">Page 68</p> <p>1 front section of the store dealing with</p> <p>2 customers?</p> <p>3 A. Most the time he was up front. But if</p> <p>4 there was something that needed to be done, he</p> <p>5 would come back.</p> <p>6 Q. And do what?</p> <p>7 A. Tell what needed to be done.</p> <p>8 Q. When he's left in charge, was it your</p> <p>9 understanding that he was in charge of both the</p> <p>10 automotive section as well as the front end of</p> <p>11 the store or just the front end? Would you</p> <p>12 consider him your supervisor when he was in</p> <p>13 charge?</p> <p>14 A. No. No one ever told me physically</p> <p>15 Kevin is in charge.</p> <p>16 Q. Did Kevin have the authority to hire</p> <p>17 or fire you?</p> <p>18 A. No.</p> <p>19 Q. Did you ever have any conversations</p> <p>20 with Kevin regarding the circumstances of your</p> <p>21 termination from Sears?</p> <p>22 A. Repeat your question.</p> <p>23 Q. Did you ever have any conversations</p> <p>24 with Kevin regarding the circumstances of your</p>

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1	termination from Sears?	1 Q. When?
2	A. No. That's after, right? No.	2 A. I don't remember.
3	Q. Either before or after.	3 Q. What court?
4	A. No.	4 A. Lynn District Court.
5	Q. Did you and Kevin get along?	5 Q. Did you speak with her when she
6	A. I will say yes.	6 appeared?
7	Q. You will say yes or yes?	7 A. No.
8	A. Yes, ma'am.	8 Q. Did she appear more than once?
9	Q. Thank you.	9 A. I don't remember.
10	Were you guys friends?	10 Q. Did you know her or speak with her
11	A. No.	11 during the time that you were employed by Sears
12	Q. Why not?	12 prior to the citation?
13	A. Good question.	13 A. No, but...
14	Q. Just never happened?	14 Q. Just to be clear. That's a no, you
15	A. Fellow employee acquaintance.	15 didn't know her or speak to her while you were
16	Q. Do you feel Kevin ever discriminated	16 employed at Sears?
17	against you on the basis of your race?	17 A. Correct.
18	A. I don't remember.	18 Q. And what were you going to say?
19	Q. You don't remember whether or not he	19 A. She did loss prevention. Now I know
20	ever discriminated against you on the basis of	20 what she did.
21	your race?	21 Q. That was her job title at Sears?
22	A. I want to say no. No.	22 A. Yes.
23	Q. So no, he did not ever discriminate	23 Q. You never had any occasion to talk to
24	against you on the basis of your race?	24 her before your termination?
	Page 70	
1	A. Yeah.	1 (Pause)
2	Q. Is that correct?	2 Q. Is that a no?
3	A. Correct.	3 A. After the termination?
4	Q. To your knowledge, Kevin was not	4 Q. Before your termination.
5	involved in the decision to terminate your	5 A. No.
6	employment; is that correct?	6 Q. And after your termination, the only
7	A. I don't know.	7 time you ever spoke to her was at the court
8	Q. Would Kevin have had the authority to	8 appearance; is that correct?
9	do that?	9 A. Before that we spoke, but I don't know
10	A. No.	10 who she was.
11	Q. Do you know who Alicia Coviello is?	11 Q. When did you speak with her?
12	A. Yes.	12 A. No idea. She gave me a hard time to
13	Q. Who is she?	13 get my last paycheck.
14	A. A girl that works at Sears.	14 Q. So sometime after you were terminated
15	Q. Do you know what her job title was at	15 was the first time you spoke with her; is that
16	Sears?	16 correct?
17	A. No.	17 A. Yeah, but I don't know who she was.
18	Q. Did she work in the automotive	18 Q. Do you remember about how long after
19	department?	19 you were terminated that discussion happened?
20	A. No.	20 A. No.
21	Q. How did you know Alicia?	21 Q. Do you remember when you went to get
22	A. Court.	22 your last paycheck?
23	Q. Could you be more specific?	23 A. No.
24	A. Appear for a citation that was issued.	24 Q. Was it within a week of your

1 termination?  
 2 A. I don't remember.  
 3 Q. Within a month?  
 4 A. Yeah. I would say within the month.  
 5 Q. So it was within a month, to the best  
 6 of your knowledge?  
 7 A. Well, I'll just say I don't remember.  
 8 Q. Would you have waited six months to go  
 9 get your last paycheck?  
 10 A. No, not that long.  
 11 Q. Three months?  
 12 A. Not that long.  
 13 Q. And that conversation you had with  
 14 Alicia when you went to get your last paycheck  
 15 was the first time you had ever spoken with her?  
 16 A. Yes.  
 17 Q. When you said she gave you a hard  
 18 time, what do you mean?  
 19 A. She didn't want to give me my check.  
 20 Q. Did she tell you she didn't want to  
 21 give you your check?  
 22 A. Not in those exact words, but  
 23 basically.  
 24 Q. What did she say?

1 Q. When you say Alicia gave you a hard  
 2 time, can you be more specific?  
 3 A. She gave me a hard time.  
 4 Q. Can you be more specific?  
 5 A. She wouldn't give it up.  
 6 Q. Can you be more specific?  
 7 A. I don't remember the events that  
 8 happened that day. Word for word, I don't  
 9 remember. But all I remember is she gave me a  
 10 tough time.  
 11 Q. Did you eventually get your last  
 12 paycheck?  
 13 A. No.  
 14 Q. Why not?  
 15 A. She wouldn't give it up.  
 16 Q. Did she say why?  
 17 A. I don't remember.  
 18 Q. Did you eventually after that  
 19 discussion with Alicia get your last paycheck  
 20 from Sears?  
 21 A. Yes.  
 22 Q. How did you receive that check?  
 23 A. I went to Sears a week after that day  
 24 and I spoke to a secretary, the same secretary

1 A. I don't remember, but she gave me a  
 2 tough time.  
 3 Q. When did you appear to get your last  
 4 paycheck?  
 5 A. I don't remember.  
 6 Q. Do you remember where you went to get  
 7 your last paycheck?  
 8 A. Sears.  
 9 Q. Which building? The Sears in Saugus,  
 10 I assume?  
 11 A. Yes, the Sears in Saugus.  
 12 Q. Which building?  
 13 A. The main building.  
 14 Q. Where the retail store is located?  
 15 A. Yes.  
 16 Q. Did you go into the human resources  
 17 department?  
 18 A. Yes.  
 19 Q. Is Alicia the only person you spoke  
 20 with to get your last paycheck?  
 21 A. The secretary.  
 22 Q. You spoke with the secretary before  
 23 you spoke with Alicia?  
 24 A. Yes.

1 before Alicia, and she gave it to me with no  
 2 hassle.  
 3 Q. But you don't, as you sit here today,  
 4 remember why Alicia wouldn't give you your last  
 5 paycheck; is that correct?  
 6 A. Correct.  
 7 Q. To your knowledge, was Alicia in a  
 8 position to hire or fire you?  
 9 A. I honestly don't know. She's loss  
 10 prevention. She wasn't in management, I don't  
 11 think. I don't know nothing about her. All I  
 12 know is loss prevention.  
 13 Q. Do you know whether or not loss  
 14 prevention had any authority to hire or fire  
 15 employees?  
 16 A. Don't know.  
 17 Q. Did Alicia ever discriminate against  
 18 you on the basis of your race?  
 19 A. I don't know.  
 20 Q. You don't know if she ever  
 21 discriminated against you on the basis of your  
 22 race?  
 23 A. I don't know.  
 24 Q. That one time you spoke to her, that's

	Page 77		Page 79
1	the first time you met her; is that correct?	1	general manager, yes.
2	A. Other than we had to appear in court	2	Q. Prior to the day of your termination
3	for that citation.	3	you never spoke with Barbara, the Barbara you
4	Q. Other than --	4	knew?
5	A. We didn't share no words.	5	A. The Barbara that's -- after the
6	Q. Other than appearing in court, the	6	termination?
7	only time you ever spoke to her was after your	7	Q. Prior to your termination, you never
8	termination when you went to get your paycheck;	8	spoke with Barbara; is that correct?
9	is that correct?	9	A. Yes.
10	A. Correct.	10	Q. The Barbara employed by Sears that
11	Q. Do you know who Barbara Tagliarino is?	11	we're discussing?
12	A. Barbara rings a bell.	12	A. Explain that again.
13	Q. Do you know who she is?	13	Q. Prior to the day of your termination,
14	A. I want to say the manager in charge of	14	is it correct that you never spoke with Barbara?
15	the whole Sears operation.	15	A. Yeah.
16	Q. Have you ever met her?	16	Q. Did you speak with Barbara after your
17	A. Termination day, yes.	17	termination?
18	Q. When you say you want to say she's the	18	A. No.
19	manager, do you believe she is the manager or do	19	Q. So that conversation you had in which
20	you want to say she is the manager?	20	you were terminated is the only time you ever
21	A. I want to say she's the manager.	21	spoke with Barbara?
22	Q. But you don't know for sure?	22	A. Correct.
23	A. No.	23	Q. Did Barbara ever discriminate against
24	Q. Is Barbara Tagliarino the same Barbara	24	you on the basis of your race?
	Page 78		Page 80
1	you met with at your termination?	1	A. Not that I know of.
2	A. I'm not familiar with the last name.	2	Q. Do you know who Richard Spellman is?
3	The first name is Barbara.	3	A. No, I don't.
4	Q. You met with a woman named Barbara	4	Q. Do you know if he's employed by Sears?
5	when you were terminated?	5	A. I don't know.
6	A. Yes.	6	Q. Do you know who Anthony Cieri is?
7	Q. Was anybody else present when you were	7	A. No. I know Anthony, my manager
8	terminated?	8	Anthony, but I don't know if that's the same
9	A. Yes, my automotive manager, Anthony,	9	Anthony.
10	at the time.	10	Q. Your manager Anthony, do you know what
11	Q. Had you ever met Barbara before the	11	his job title is?
12	day of your termination?	12	A. Shop manager.
13	A. No.	13	Q. And he managed the automotive shop
14	Q. Do you know what Barbara's job title	14	when you worked --
15	was at Sears?	15	A. Yes.
16	A. The woman named Barbara that I knew of	16	Q. -- at Sears?
17	was the general manager of the store.	17	A. Yes.
18	Q. Did Barbara have authority to hire or	18	Q. If you can let me finish my question
19	fire you, to your knowledge?	19	even though you know what it's going to be so
20	A. I will say yes. The Barbara I know?	20	she can record it.
21	Q. Yes, the Barbara you know?	21	A. I apologize.
22	(Pause)	22	Q. That's okay.
23	Q. Yes?	23	A. It slipped my mind.
24	A. The Barbara that I know of, yeah, the	24	Q. It does mine all the time. Don't

	Page 81	
1	worry.	1 about the circumstances of your terminations
2	Did you get along with Anthony?	2 from Sears?
3	A. I'd say we had a good relation until	3 A. No.
4	the termination.	4 Q. Did you ever talk -- I'm sorry. Go
5	Q. How frequently did you see Anthony	5 ahead.
6	while you were employed at Sears?	6 A. This would be after the termination?
7	A. When we worked the same -- when he --	7 Q. Either before or after the
8	when we worked the same schedule.	8 termination, did you ever talk with Jose about
9	Q. To your knowledge, did Anthony have	9 any of the circumstances that gave rise to your
10	the authority to terminate your employment at	10 termination?
11	Sears?	11 A. No.
12	A. Yes.	12 Q. Did you ever speak with Michael
13	Q. Did Anthony ever discriminate against	13 Katsaris about the circumstances that gave rise
14	you on the basis of your race?	14 to your termination or about the termination
15	A. Not that I know of.	15 itself?
16	Q. Do you know who Jose Hernandez is?	16 A. No.
17	A. Yes.	17 Q. Did you ever speak with John Baldi
18	Q. Who is he?	18 about the circumstances that gave rise to your
19	A. A fellow employee.	19 termination or about the termination itself?
20	Q. When you were employed at Sears?	20 A. After or before?
21	A. When I was employed at Sears.	21 Q. Before or after.
22	Q. Did you and Jose get along?	22 A. Yes.
23	A. Yes.	23 Q. What did you and John talk about with
24	Q. Was Jose a supervisor or was he the	24 regard to your termination?
	Page 82	
1	same level as you?	1 A. Why did I get terminated.
2	A. Same level.	2 Q. When did you talk to John about why
3	Q. Do you know who Michael Katsaris is?	3 you got terminated?
4	A. Yes.	4 A. The day I returned his pickup truck
5	Q. Who is he?	5 that he let me borrow.
6	A. A fellow employee.	6 Q. When did you return the pickup truck?
7	Q. At Sears?	7 A. The day of termination.
8	A. Yes.	8 Q. Do you remember what day you were
9	Q. Was he also an automotive tech?	9 terminated?
10	A. Yes.	10 A. No. I don't remember.
11	Q. Did you and Michael get along?	11 Q. During the course of your appointment
12	A. I'd say yes.	12 at Sears, do you remember if anybody
13	Q. Do you know who John Baldi is?	13 discriminated against you on the basis of your
14	A. Yes.	14 race, or do you know if anybody discriminated
15	Q. Who is he?	15 against you on the basis of your race?
16	A. Fellow employee.	16 A. Yes.
17	Q. By John Baldi, I mean John Baldi, Jr.	17 Q. Who?
18	Do you understand me?	18 A. A man named Sal, Sal something.
19	A. Yes.	19 Q. Do you remember his last name?
20	Q. He's a fellow employee at Sears?	20 A. No, I don't.
21	A. Yes.	21 Q. Do you remember what his job title was
22	Q. Did you and John get along?	22 at Sears?
23	A. Yes.	23 A. Service writer.
24	Q. Did you ever talk with Jose Hernandez	24 Q. So he had the same job title as Kevin
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1	Sullivan?	1 Q. It was just you and him at the shop?
2	A. Yes.	2 A. Yes.
3	Q. How did Sal discriminate against you?	3 Q. What did you say in response when he
4	A. He came at me one day angry and he	4 told you to go back to Cambodia?
5	told me to go back to Cambodia you fucking Gook.	5 A. I'm trying to remember.
6	Q. Those are the exact words he used?	6 Q. Take your time.
7	A. Yes.	7 A. To the best of my knowledge, after he
8	Q. Why was he angry at you?	8 spoke his racial slur I replied, I'm not
9	A. Because I didn't do something that I	9 Cambodian. He said, Whatever you are. I called
10	wasn't supposed to do. No. Let me rephrase	10 him, Shut up, meatball, something like that.
11	that. He expected me to do something that was	11 Q. Is Sal Italian?
12	out of my job title.	12 A. I guess so. I'm not sure. But I
13	Q. What did he expect you to do?	13 guess so.
14	A. Go to the warehouse and grab a tire	14 Q. But I assume when you said, Shut up,
15	when a sales writer is supposed to do it.	15 meatball, you were referring to --
16	Q. Go to the warehouse and grab a tire.	16 A. Yes. That's what I said.
17	you said?	17 Q. What did he say when you told him that
18	A. Yes.	18 you weren't Cambodian?
19	Q. Where is the warehouse?	19 A. Say that again.
20	A. Downstairs underneath -- under the	20 Q. What did he say when you told him you
21	automotive center.	21 weren't Cambodian?
22	Q. And did Sal ask you to do that?	22 A. Whatever the hell you are.
23	A. Yes. But I was busy myself.	23 Q. And that's when you replied, Shut up,
24	Q. Was Sal a supervisor?	24 meatball?
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1	A. No.	1 A. Basically, yes.
2	Q. Did Sal have the authority to	2 Q. By "basically" is that exactly what
3	terminate your employment at Sears, to your	3 you said, or is that what you remember saying?
4	knowledge?	4 A. To the best of my knowledge, I know I
5	A. No.	5 said meatball. It was nonsense back and forth.
6	Q. Was Sal still employed by Sears when	6 Q. What happened next?
7	you were terminated?	7 A. We went our separate ways.
8	A. I believe so.	8 Q. Did you ever have any other
9	Q. So he was still employed by Sears when	9 interactions with Sal in which he used racial
10	you left; is that correct?	10 slurs against you?
11	(Pause)	11 A. Just that one time --
12	Q. Is that a yes?	12 Q. Did you inform --
13	A. Yes.	13 A. -- that I know of.
14	Q. Thank you.	14 Q. That you remember, you mean?
15	MS. TRAN: Do you want to take a quick	15 A. Yes.
16	break?	16 Q. Did you inform anybody else at Sears
17	(Recess taken)	17 about what Sal told you?
18	BY MS. TRAN:	18 A. I don't remember.
19	Q. Getting back to the incident you	19 Q. Do you remember telling Anthony about
20	described with Sal?	20 what Sal said?
21	A. Okay.	21 A. Yes.
22	Q. Was anybody else present when he made	22 Q. What did Anthony say in response to
23	these comments to you?	23 that?
24	A. No.	24 A. Oh, wow. Really? That's all I
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<p style="text-align: right;">Page 89</p> <p>1 remember.</p> <p>2 Q. You don't remember if he said anything 3 else or if you talked about it with Sal or 4 anything?</p> <p>5 A. All I remember is one day he pulled me 6 in his office and asked what happened.</p> <p>7 Q. Who did?</p> <p>8 A. Anthony.</p> <p>9 Q. Why did Anthony pull you into his 10 office and ask you what happened?</p> <p>11 A. To get the breakdown of what really 12 happened.</p> <p>13 Q. Was this because there was tension 14 between you and Sal during the time that you 15 worked there?</p> <p>16 A. Him, maybe; me, no.</p> <p>17 Q. So do you have any knowledge, as you 18 sit here today, as to why Anthony pulled you 19 into his office to ask you what happened?</p> <p>20 A. Say that again.</p> <p>21 Q. Do you have any knowledge, as you sit 22 here today, as to why Anthony pulled you into 23 his office to ask you --</p> <p>24 A. Just to find out what happened.</p>	<p style="text-align: right;">Page 91</p> <p>1 Q. Did you tell any of your fellow 2 employees?</p> <p>3 A. I don't remember.</p> <p>4 Q. Have you ever discussed the comment 5 Sal made to you with John Baldi?</p> <p>6 A. Yes.</p> <p>7 Q. When did you discuss them with John?</p> <p>8 A. I don't remember.</p> <p>9 Q. By John, I mean John, Jr. You 10 understand me?</p> <p>11 A. Yeah.</p> <p>12 Q. You don't remember when you discussed 13 them with John?</p> <p>14 A. I don't remember.</p> <p>15 Q. Was it before or after your 16 termination?</p> <p>17 A. It was after my termination.</p> <p>18 Q. Do you remember if it was shortly 19 after your termination?</p> <p>20 A. I don't remember.</p> <p>21 Q. Did you discuss these comments that 22 Sal made to you with Jose Hernandez?</p> <p>23 A. I don't remember.</p> <p>24 Q. Do you remember discussing it with</p>
<p style="text-align: right;">Page 90</p> <p>1 Q. Was it shortly after the racial slur?</p> <p>2 A. Yeah.</p> <p>3 Q. The same day?</p> <p>4 A. No.</p> <p>5 Q. Was it within a week?</p> <p>6 A. Somewhere in that time frame, I guess.</p> <p>7 Q. Did you speak with anybody else at 8 Sears about the comment that Sal made to you?</p> <p>9 A. I don't remember.</p> <p>10 Q. Do you remember when this happened, 11 Sal's comment to you?</p> <p>12 A. Sometime during my employment.</p> <p>13 Q. Do you remember how far into your 14 employment it was?</p> <p>15 A. I don't remember.</p> <p>16 Q. Was it more than six months into your 17 employment?</p> <p>18 A. I honestly don't remember.</p> <p>19 Q. Do you remember if it was more than a 20 year into your employment?</p> <p>21 A. I don't remember.</p> <p>22 Q. And you don't remember telling anybody 23 else at Sears about the comment Sal made to you?</p> <p>24 A. Yeah.</p>	<p style="text-align: right;">Page 92</p> <p>1 anybody else that you worked with at Sears that 2 was not in a management position?</p> <p>3 A. I don't remember.</p> <p>4 Q. To the best of your recollection, 5 Anthony Cieri is the only manager you ever spoke 6 with about the comment that Sal made; is that 7 correct?</p> <p>8 A. That I remember, yes.</p> <p>9 Q. Were you ever reprimanded during the 10 time that you were employed by Sears?</p> <p>11 A. Say that again.</p> <p>12 Q. Were you ever reprimanded by Sears 13 during the time of your employment by Sears?</p> <p>14 A. I don't understand that question.</p> <p>15 Q. Were you ever disciplined for any 16 reason?</p> <p>17 A. When you say disciplined, what do you 18 mean?</p> <p>19 Q. Were you ever spoken to for any 20 actions that you had done at Sears? Were you 21 ever reprimanded? Was there ever a warning 22 issued to you for anything that you had done?</p> <p>23 A. I don't remember.</p> <p>24 Q. When were you terminated? Do you</p>

Page 93	Page 95
1 remember the date? 2 A. No, I don't. 3 Q. Do you remember the month you were 4 terminated? 5 A. I don't remember. 6 Q. You testified earlier that Barbara and 7 Anthony were the only two people that were 8 present when you were terminated; is that 9 correct? 10 A. Correct. 11 Q. What reason were you given for your 12 termination? 13 A. I don't know. 14 Q. You don't remember? 15 A. I don't remember. Exact written 16 reason? 17 Q. Any reason. What reason were you 18 given for your termination? 19 A. At this point, I don't remember. 20 Q. What were the circumstances 21 surrounding your termination? 22 A. Swearing. 23 Q. Swearing at whom? 24 A. Not me. Another employee.	1 Q. What happened during the termination? 2 Where did you go? 3 A. We went -- Anthony called me in his 4 office, and from there we went to Barbara's 5 office. 6 Q. Did Anthony say why he was calling you 7 into his office? 8 A. Yeah, We have a problem. 9 Q. Did he elaborate, or is that all he 10 said at that time? 11 A. He elaborated. 12 Q. What did he say? 13 A. From the best of my knowledge, 14 basically just the events that happened one 15 night from swearing back and forth. 16 Q. When you say "swearing back and 17 forth," what do you mean? 18 A. The other technician swearing. 19 Q. What happened after Anthony pulled you 20 into his office? 21 A. We have to wait for Barbara. 22 Q. Did you wait in Anthony's office for 23 Barbara? 24 A. No.
Page 94	Page 96
1 Q. Some other employee swore? 2 A. Mm-hmm. 3 Q. But you were terminated for it? 4 A. Yeah. 5 Q. What's the other employee's name that 6 swore? 7 A. I don't remember. 8 Q. Who did the other employee supposedly 9 swear at? 10 A. A customer. 11 Q. And you never swore at that customer? 12 A. No. 13 Q. Had you ever been reprimanded for 14 swearing prior to that incident? 15 A. I don't remember. 16 Q. When you say Barbara and Anthony were 17 the only two people present when you were 18 terminated, where was it when you were 19 officially terminated? Were you in Barbara's 20 office or Anthony's office? 21 A. Barbara's office. 22 Q. Was it at the end of a shift that you 23 were called in to Barbara's office? 24 A. No.	1 Q. Where did you go? 2 A. Human resources. 3 Q. Did you and Anthony go to human 4 resources together? 5 A. The first time, no. 6 Q. What do you mean by "the first time"?
	7 A. After Anthony called me in the office, 8 he told me what happened. So I went to go talk 9 with Barbara. 10 Q. I'm going to stop you for a second. 11 When you say he told you what happened, what do 12 you mean? 13 A. The swearing back and forth with the 14 other technician. 15 Q. What did Anthony say to you about 16 that? 17 A. That's all I remember. He basically 18 said, We got a complaint on you about swearing 19 with another technician, or whatever, and we got 20 to let you go. 21 Q. Did he say the complaint was from 22 another technician or from a customer? 23 A. I don't remember. 24 Q. Did you ask him?

24 (Pages 93 to 96)

	Page 97		Page 99
1	A. I don't remember.	1	what.
2	Q. What happened next?	2	A. Okay.
3	A. I was waiting for Barbara.	3	Q. So you walk into her office, and what
4	Q. Where were you waiting for Barbara?	4	happens next?
5	A. Human resources.	5	A. From what I remember, it's, Have a
6	Q. So after you spoke with Anthony, you	6	seat.
7	went to human resources by yourself?	7	Q. Who says, Have a seat?
8	A. Yeah.	8	A. Barbara says, Have a seat.
9	Q. Did you speak with Barbara?	9	Q. Okay.
10	A. No.	10	A. You're terminated.
11	Q. Why not?	11	Q. Barbara says, You're terminated?
12	A. She wasn't present.	12	A. She didn't even -- she didn't even
13	Q. What happened next?	13	allow me to explain myself. She just basically
14	A. Spoke to a secretary. The secretary	14	said, You're terminated. Go. Get off the
15	told me she called and she's going to be late.	15	property.
16	Q. What did you do?	16	Q. Did you want to explain yourself?
17	A. Went back to Anthony.	17	A. Oh, yes.
18	Q. Back to Anthony's office?	18	Q. What were you going to say if you were
19	A. Yes.	19	given an opportunity to explain yourself?
20	Q. What happened next?	20	A. It wasn't me.
21	A. We both went to go wait for Barbara.	21	Q. Did you tell Anthony it wasn't you?
22	Q. So you went back to Anthony's office,	22	A. Yes.
23	and then you and Anthony both went to human	23	Q. What did Anthony say?
24	resources to wait for Barbara?	24	A. He told me that the customer said it
	Page 98		Page 100
1	A. Mm-hmm.	1	was me.
2	MR. CLOHERTY: You have to say yes or	2	Q. What did you say when he told you that
3	no.	3	the customer said it was you?
4	A. Yes.	4	A. I asked him to pull the other
5	Q. Then what happened?	5	technician in.
6	A. We waited for Barbara.	6	Q. Who was the other technician?
7	Q. At some point did Barbara arrive?	7	A. I don't remember his name.
8	A. Yes.	8	Q. Did he pull the other technician in?
9	Q. What happened next?	9	A. I don't think he was on schedule. I
10	A. Come to my office.	10	could be wrong though.
11	Q. Who said that?	11	Q. But as you sit here today, you don't
12	A. Barbara.	12	remember that he was working that day, the other
13	Q. Did you and Anthony go into Barbara's	13	technician?
14	office?	14	A. Yes.
15	A. Yes, we did.	15	Q. Had you been reprimanded or warned for
16	Q. What happened next?	16	swearing at a customer prior to that incident?
17	A. You're terminated.	17	A. I don't remember.
18	Q. When you say "you're terminated," is	18	MS. TRAN: I'm going to have these
19	that somebody telling you you're terminated?	19	marked as 5, 6, 7 and 8.
20	A. Barbara.	20	(Exhibits 5 through 8 marked
21	Q. So you walk into her office, and the	21	for identification)
22	first thing she says is, You're terminated?	22	Q. I'm going to show you what's been
23	A. Have a seat.	23	marked as Exhibit No. 8. Just take a minute to
24	Q. I need you to tell me who is saying	24	review that and let me know when you're finished

25 (Pages 97 to 100)